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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,497	03/23/2004	Christopher L. Oesterling	GP-304388	2771

7590 04/19/2006

ANTHONY LUKE SIMON  
General Motors Corporation  
Legal Staff, Mail Code 482-C23-B21  
P.O. Box 300  
Detroit, MI 48265-3000

EXAMINER

ZEWDU, MELESS NMN

ART UNIT PAPER NUMBER

2617

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/806,497	<b>Applicant(s)</b> OESTERLING ET AL.	
	<b>Examiner</b> Meless N. Zewdu	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

1. This action is the first on the merit of the instant application.
2. Claims 1-7 are pending in this action.

***Specification***

The disclosure is objected to because of the following informalities: the "summary of the invention" includes a reference to claim 1 (see paragraph 0005).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 recites the limitation "wherein the determined cal is ---" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2617

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hellaker (US 2002/0197988 A1).

**As per claim 1:** Hellaker discloses, a method for telematic data transfer comprising the steps of:

monitoring parameters for personal communications made through a telematics unit in a vehicle between the telematics unit and at least one remote location (see paragraph (see abstract; claim 1). The private call in the prior art is made through the vehicle's communication system (telematics) and it includes data call to a remote station.

determining a communication requirement for communicating between the telematics unit and the remote location (see paragraph 0041; claim 1). paragraph 0003). But, the APA does not explicitly teach about - scheduling and executing the determined communication responsive to the monitored parameters to increase likelihood of success of the determined communication (see paragraph 0031). The prior art handles priority between calls made by the vehicle communication system (telematics). But priority is a function of scheduling.

**As per claim 3:** Hellaker discloses, a method, wherein the determined communication is an outbound communication from the vehicle to the remote location (see paragraph

Art Unit: 2617

0029). The prior art's emergency call is an outbound call from a vehicle to a remote station.

**As per claim 5:** the features of claim 5 are similar to the features of claim 1. Hence, claim 5 is rejected on the same ground as claim 1.

**As per claim 7:** most of the features of claim 7 are similar to the features of claim 1 and are rejected on the same ground as claim 1. The difference feature, - a data transfer mode responsive to the monitoring parameters to increase likelihood of success of the data transfer communication and minimize interruption by a personal communication is disclosed by Hellaker (see paragraph 0045).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellaker in view of Fuchs et al. (Fuchs) (US 6,970,703 B2).

**As per claim 2:** But, Hellaker does not explicitly teach about a method, also comprising the step of creating a profile of the monitored parameters, wherein the step of scheduling and executing is responsive to the profile, as claimed by applicant. However, in a related field of endeavor, Fuchs teach about an integrated personal

Art Unit: 2617

communications system and a telematic device coupled with a vehicle (see abstract), wherein a user creates a profile to personalize or preset a telematic device in association with a remote service providing entity (see col. 7, lines 7-44). The profile can be stored in the local (vehicle) telematics system or in the remote service providing entity. When the two references are combined, as shown hereinabove, the call relating to a requested service will be made based on Hellaker's priority (scheduling).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Hellaker with that of Fuchs for the advantage of satisfying the desire of today's wireless subscribers that the vast array of features available to both telematics and a personal wireless services be integrated into one wireless device (see col. 1, lines 54-57).

**As per claim 4:** Fuchs teaches a method, also comprising the step of:

transferring the profile to the remote location (see col. 7, lines 29-44), wherein the determined call is an inbound communication from the remote location to the telematics unit (see col. 7, lines 31-44). According to Fuchs' reference, the profile is either pushed or pulled, which indicates outbound and inbound calls made.

**As per claim 6:** the feature of claim 6 is similar to the feature of claim 2. Hence, claim 6 is rejected on the same ground and motivation as claim 2.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks-Harold, Marsha can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Meless zewdu

*Zewdu, Meless* 4-10-06

Examiner

10 April 2006.